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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,706	06/24/2005	Declan Patrick Kelly	NL021500	2403

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BRIARCLIFF MANOR, NY 10510

EXAMINER

LAFORGLA, CHRISTIAN A

ART UNIT

PAPER NUMBER

2139

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DELIVERY MODE

07/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,706

Applicant(s)

KELLY ET AL.

Examiner

Christian LaForgia

Art Unit

2139

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 March 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02 May 2008 has been entered.
2. Claims 1-6 have been presented for examination.
3. Claims 7 and 8 have been cancelled as per Applicant's request.

Response to Arguments

4. Applicant's arguments with respect to the 35 U.S.C. 112, 2nd rejection filed 04 March 2008 have been fully considered but they are not persuasive. The Applicant has failed to indicate in the original disclosure support for the claimed "switching means" and "associating means." The Applicant attempts to show support for these features by supplying a new figure, Figure 3, which has been objected to as being new matter. Therefore, the 35 U.S.C. 112, 2nd rejection of claim 4 is maintained.
5. Applicant's arguments with respect to the 35 U.S.C. 101 filed 04 March 2008 have been fully considered but they are not persuasive. The Applicant has failed to indicate in the original disclosure support for the structure claimed by the means for language of claim 6. The Applicant attempts to show support for these features by supplying a new figure, Figure 3, which has been objected to as being new matter. Therefore, the 35 U.S.C. 101 rejection of claim 6 is maintained.

6. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new grounds of rejection.
7. See further rejections set forth below.

Specification

8. The amendment filed 04 March 2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Figure 3 and the associated amendment to include a description of Figure 3 in the specification.
9. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 4 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is further supported by the Applicant's attempt to include new Figure 3 and its associated description to the originally filed disclosure.
12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As discussed in the previous Office Action of 08 January 2008, the specification does not provide an adequate disclosure showing what structure is meant by the limitations “switching means” and “association means.” See MPEP § 2181(II).

14. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: attempting to access a server (prior to the second comparing step).

Claim Rejections - 35 USC § 101

15. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

16. Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. One of ordinary skill in the art may interpret the present invention as being implemented as software, thereby rendering the “means for” language in claim 6 as computer software. *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994), decided that

the “broadest reasonable interpretation” that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.

See MPEP § 2181 also. Therefore, giving the claims their broadest reasonable interpretation, while keeping the structure disclosed in the specification in my mind, one of ordinary skill in the art would construe claim 6 as representing a computer program *per se*.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,385,388 B1 to Lewis et al., hereinafter Lewis, in view of U.S. Patent No. 7,305,624 B1 to Siegel, hereinafter Siegel.

19. As per claims 1 and 4, Lewis teaches discloses a method of and information carrier player for controlling, from an information carrier player, a user access to an information carrier and to a server, said information carrier being associated with a preset parental control level (DVD_PCL), said information carrier player being associated with a current parental control level selected from among a set of parental control levels, said method of controlling comprising the steps of:

receiving the preset parental control level associated with the information carrier (Figures 10 and 11 [step 123], column 7, lines 21-37, i.e. determining the parental rating associated with a disk);

comparing said current parental control level and said present parental control level (column 5, lines 22-35);

authorizing or not authorizing access to the information on said information carrier in dependence on said comparing step (column 5, lines 22-35).

20. Lewis does not teach associating a list of server addresses with said parental control levels and restricting the user access to the server addresses in said list having parental control level lower than or equal to said current parental control level.

21. Siegel teaches using parental controls to limit access to questionable or objectionable web sites and content (column 38, lines 23-57).

22. It would have been obvious to one of ordinary skill in the art at the time the invention was made to associate a list of server addresses with said parental control levels and restrict the user access to the server addresses in said list having parental control level lower than or equal to said current parental control level, since Siegel states in the abstract that using parental controls for websites will help to provide a safe Internet experience. This is especially true since US 2002/0147782 A1 to Dimitrova et al., hereinafter Dimitrova, states in paragraph 0035 that video input streams are coming from a variety of sources these days such as DVD, VCR, cable TV, satellite and the Internet. Furthermore, *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007) brought to light that it does not require anything more than routine skill in the art to combine two techniques that were already known to yield a predictable result. In the present case, the Applicant is combining parental controls for a media player with parental controls for web browsing.

23. Regarding claim 2, Lewis teaches a first control sub-step for deactivating said restricting step (Figures 10 and 11 [step 131], column 7, line 50 to column 8, line 5, i.e. overriding parental controls).

24. Regarding claim 3, Lewis and Siegel do not teach a second control sub-step for forbidding the user access to any server address.

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to forbid access to any server, since it only takes routine skill in the art to remove access to any server address. See MPEP § 2144.04(II); see also *Ex parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989).

26. As per claims 5 and 6, Lewis teaches a method of and information carrier player for controlling, from an information carrier player, a user access to an information carrier and to a server, said information carrier being associated with a preset parental control level (DVD_PCL), said information carrier player being associated with a current parental control level selected from among a set of parental control levels, said method of controlling comprising the steps of:

receiving the preset parental control level associated with the information carrier (Figures 10 and 11 [step 123], column 7, lines 21-37, i.e. determining the parental rating associated with a disk);

comparing said current parental control level and said present parental control level (column 5, lines 22-35);

authorizing or not authorizing access to the information on said information carrier in dependence on said comparing step (column 5, lines 22-35).

27. Lewis does not teach comparing said current parental control level and the highest parental control level of said set of parental control levels; and authorizing or not authorizing access to said server in dependence on said comparing.

28. Siegel teaches using parental controls to limit access to questionable or objectionable web sites and content (column 38, lines 23-57).

29. It would have been obvious to one of ordinary skill in the art at the time the invention was made to compare said current parental control level and the highest parental control level of said set of parental control levels and authorize or not authorizing access to said server in dependence on said comparing, since Siegel states in the abstract that using parental controls for websites will help to provide a safe Internet experience. This is especially true since US 2002/0147782 A1 to Dimitrova et al., hereinafter Dimitrova, states in paragraph 0035 that video input streams are coming from a variety of sources these days such as DVD, VCR, cable TV, satellite and the Internet. Furthermore, *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007) brought to light that it does not require anything more than routine skill in the art to combine two techniques that were already to known to yield a predictable result. In the present case, the Applicant is combining parental controls for a media player with parental controls for web browsing.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

31. The following patents are cited to further show the state of the art with respect to implementing parental controls on DVD players, such as:

United States Patent No. 6,973,461 B1 to Fleming, III et al., which is cited to show implementing parental controls on a DVD player.

United States Patent No. 6,694,090 B1 to Lewis et al., which is cited to show a patent related to the one used to reject the claims of the instant application.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian LaForgia whose telephone number is (571)272-3792. The examiner can normally be reached on Monday thru Thursday 7-5.

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian LaForgia/
Primary Examiner, Art Unit 2139

clf